

## **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

LSA Document #05-168

### **SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND PUBLIC COMMENT PERIOD**

The Indiana Department of Environmental Management (IDEM) requested public comment from May 1, 2006 through May 31, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

James J. Schreiner, Elk Distributing, Inc. (ED)

Following is a summary of the comments received and IDEM's responses thereto.

*Comment:* Regarding 329 IAC 15-3-5: Why should a clean up crew be able to automatically become a registered processor without meeting all the requirements of other processors? This is not fair and could give rise to unfair bidding on state jobs and graft, kickbacks, and corruption.

*Response:* IDEM's contracts to clean up waste tire sites are significantly more stringent than the requirements of this rule, and these contractors are subject to significantly more oversight than other waste tire processors. Since the waste tire fund and Indiana taxpayers pay for these contracts, requiring these state contractors to register increases the contract cost without adding to the level of compliance on these jobs. When these contractors process tires outside of an IDEM contract they must register under this rule just like any other waste tire processor.

*Comment:* The financial impact of a surety, such as a letter of credit or a surety bond, is minimal. Why is the cost of a storage site license so high? Could it be lowered? (ED)

*Response:* The fee for waste tire storage site registrations and waste tire processing operation registrations are set by Indiana law at IC 13-20-21-3. The annual operating fee for waste tire storage sites is set by Indiana law at IC 13-20-21-4.

*Comment:* Why can the commissioner issue a permit? This gives him too much power and that gives rise to favoritism, kickbacks, and corruption. Everyone should comply with the law. We are seeing double standards with certain entities in Ohio. (ED)

*Response:* The department is charged with the responsibility to issue permits by Indiana law. Those permits are issued in accordance with the procedure established by Indiana law that provides for public comment and scrutiny of each permit before it is issued. The commissioner has been and will continue to be a strong advocate for fairness and openness in environmental permitting.

*Comment:* The definition of used tires should be "definition of resalable tires." High tread tires with cuts and slashes can be sold and repaired all day long. Minor cord exposure can be sold if it is a popular size. Tread depth standards vary by size (#1, #2, #3, or A, B, C) depending on where tires are going and who is buying. The commentor sells 1,000 to 3,000 tires per week. They cannot mark each tire for tread depth. The goal is minimum handling. The

commentor does not sell retail and does not know retail prices. Retail prices depend on size, quality, brand, part of the county, and customer. Some tires are free but have big installation fees. (ED)

*Response:* This rule governs the storage of waste tires. Traditionally, used tires have not been considered to be waste tires because they theoretically can still be used as a vehicle tire. The specific criteria for a waste tire are not relevant to this rule. What is relevant is that they are stored consistent with the intent of the waste tire laws. Frequently, IDEM inspectors find large amounts of whole tires stored without cover, which the storage site operator claims are “used tires.” This practice violates the waste tire rules. A number of storage sites believe that used tires are exempt from regulation. The current definition requires tires that are claimed to be used tires to be stored under cover.

*Comment:* Why doesn't a retail operator have to follow the same rules and definition? A tire is a tire whoever recycles it. (ED)

*Response:* Retailers are persons engaged in the business of selling new tires at retail in Indiana. Retailers are sources of waste tires and are required to dispose of their waste tires as required by IC 13-20-14-4. With the exception of 329 IAC 15-3-17(l), this rule does not regulate retailers.

*Comment:* Regarding 329 IAC 15-3-3(a): What is a USGS seven and one half minute (7½') topographic map. How about a street address and a realtor's drawing or survey? (ED)

*Response:* The USGS seven and one half minute (7½') topographic map is a cartographic product of the United States Geological Survey that allows IDEM permit writers and inspectors, fire departments, law enforcement agencies, emergency planners and other users to locate the facility with reasonable precision. USGS topographic maps are widely available at retail map dealers, directly from the United States Geologic Survey, and from various on-line sources.

*Comment:* Regarding closure cost estimates in 329 IAC 15-5-3: If the commentor fails, who is to say who will survive and clean them up? Who is to say what the closure cost would be in the future? (ED)

*Response:* Under Indiana's waste tire laws, each waste tire storage site must maintain financial assurance acceptable to IDEM to remove all waste tires at the site in the event the waste tire storage site must be closed. This provision is intended to protect Indian taxpayers from bearing the costs of illegal activity or poor financial management of a waste tire storage site. The owner or operator of the waste tire storage is required to obtain an estimate of what it will cost to remove all waste tires and close the site, and to obtain a financial assurance mechanism to reimburse the state for costs of cleaning up the site. The closure cost estimate must be updated annually. The financial assurance requirements in these rules and Indiana law are frequently ignored and IDEM is using this rulemaking to strengthen these protections for Indiana taxpayers.